IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1830 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RATANSINH PARBATSINH RATHOD - Applicant(s)
Versus
MAKUNDBHAI KODARLAL SONI & 1 - Respondent(s)

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Appearance :
MS LAXMI C NAINANI for Applicant(s) : 1,
SERVED BY RPAD - (N) for Respondent(s) : 1,
MR JN JADEJA for Respondent(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/08/2007
ORAL JUDGMENT

By way of this petition under Article 227 of the Constitution of India read with Section 482 of the Criminal Procedure Code the

petitioner, original-applicant has prayed for an appropriate order quashing and setting aside the order dated 6.9.2005 passed by Presiding Officer, Fast Track Court, Court No.12, Sabarkantha, District-Himatnagar in Criminal Revision Application No. 83/2005.

2. The facts leading to the present application in nutshell are as under;

Respondent No.1, original-complainant has filed criminal complaint being Criminal Case No. 1029 of 1998 in the Court of learned JMFC, Prantij against the petitioner for the offence under Section 138 of The Negotiable Instruments Act [hereinafter referred to as 'the Act']. As one Special Civil Suit No. 24 of 2001 was filed by respondent No.1 in the Court of learned Civil Judge (SD), Himatnagar for recovery of amount due and payable inclusive of cheque amount the petitioner original-accused submitted an application below Exh. 60 to stay the proceedings

of Criminal Case No. 1029 of 1998 till final disposal of the aforesaid Special Civil Suit. That by order dated 18.7.2005 the learned JMFC, Prantij allowed the said application and stayed the proceedings of Criminal Case No. 1029 of 1998 till Special Civil Suit No. 24 of 2001 is decided and disposed of by the learned Civil Judge (SD), Himatnagar.

3. Being aggrieved and dissatisfied with the order dated 18.7.2005 passed by the learned JMFC, Prantij staying the proceedings of aforesaid Criminal Case No. 1029 of 1998 the respondent No.1 preferred Criminal Revision Application No. 83 of 2005 before the revisional court and the learned Presiding Officer, Fast Track Court, Courtt No.12, Sabarkantha, District-Himatnagar by order dated 6th September 2005 allowed the said revision application and quashed and set aside the order passed by the learned JMFC, Prantij, dated 18.7.2005. Being aggrieved and dissatisfied with the judgment and order passed

by the revisional court in Crimial Revision Application No. 83 of 2005 the petitioner original-accused has preferred the present petition for the aforesaid relief.

4. Today when the matter is called out Shri JN Jadeja, learned advocate appearing on behalf of respondent No.1, original-complainant has submitted that Special Civil Suit No. 148/2006 is now already decided and disposed of and therefore the cause to stay the criminal case does not survive. The learned advocate appearing on behalf of the petitioner does not dispute the disposal of the suit for which the Criminal Case No. 1029 of 1998 was stayed. Under the circumstances and in view of the subsequent development of disposal of the suit before the civil court for which further proceeding of Criminal Case No. 1029/1998 was stayed, no cause survives now to stay further proceedings of Criminal Case No. 1029/1998. The present petition is therefore disposed of with a

direction to the learned JMFC, Prantij to proceed further and decide and dispose of Criminal Case No. 1029/1998 in accordance with law and on merits as early as possible. With these, the present petition is disposed of. Rule is discharged. Ad-interim relief granted earlier stands vacated forthwith.

[M.R. Shah, J.]

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